



APPLICATION ACCEPTED: June 25, 2014
PLANNING COMMISSION: November 19, 2014
BOARD OF SUPERVISORS: December 2, 2014
@ 3:30 P.M.

County of Fairfax, Virginia

November 5, 2014

STAFF REPORT

SPECIAL EXCEPTION SE 2014-HM-036

HUNTER MILL DISTRICT



APPLICANT: Elaine M. Whitehurst dba Whitehurst Family Day Care

ZONING: PDH-8 (Planned Development Housing District, Eight Dwelling Units Per Acre)

PARCEL: 16-3 ((7)) 69

SITE AREA: 2,496 square feet

PLAN MAP: Residential, 2-3 dwelling units per acre

PROPOSAL: To permit a home child care facility for a maximum of nine children at any one time.

STAFF RECOMMENDATIONS:

Staff recommends approval of SE 2014-HM-036, subject to the approval of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board of Supervisors, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this application does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

Mary Ann Tsai, AICP



For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Exception

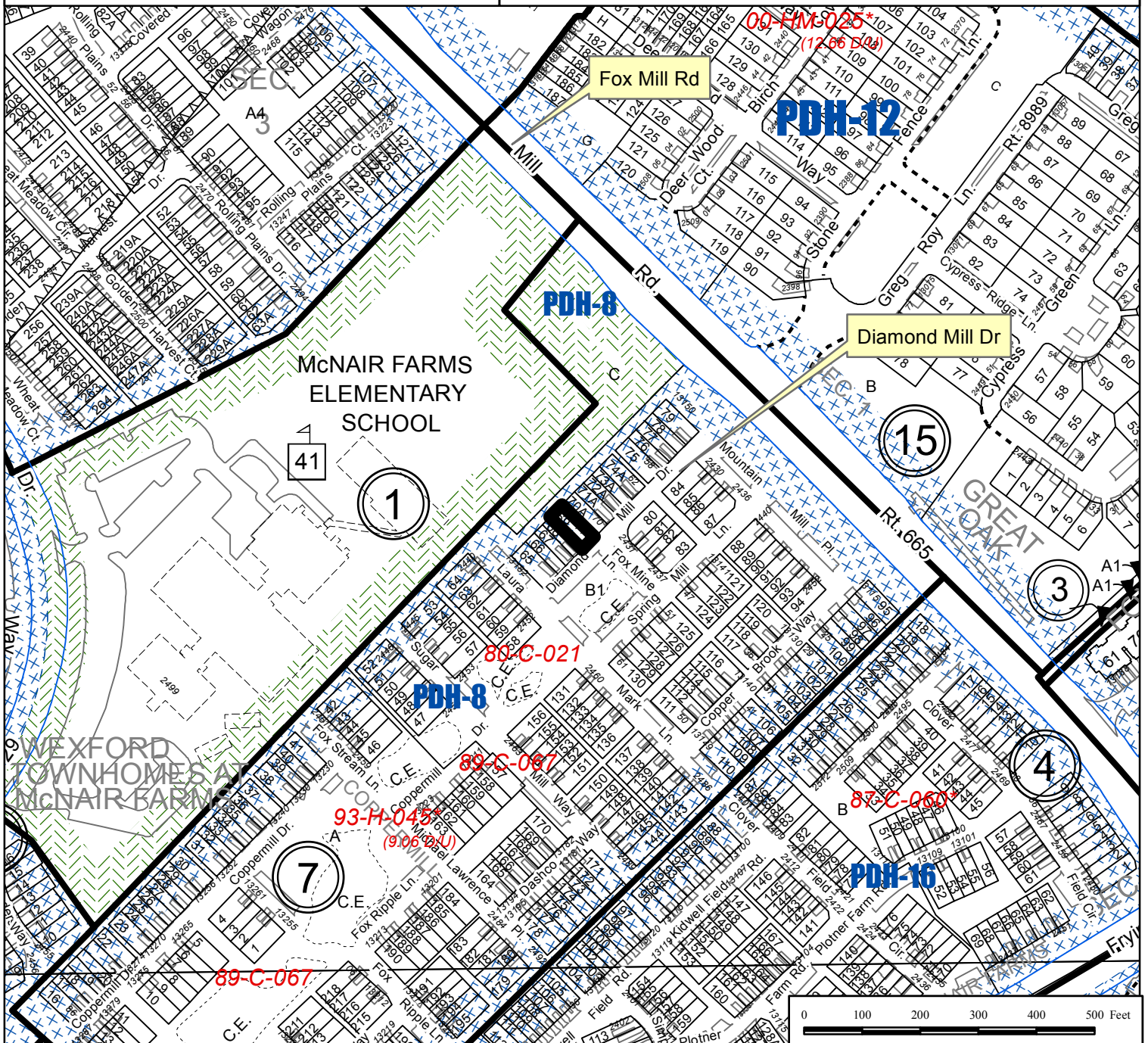
SE 2014-HM-036



Applicant: ELAINE M. WHITEHURST DBA WHITEHURST FAMILY DAYCARE
Accepted: 06/25/2014
Proposed: HOME CHILD CARE FACILITY
Area: 2496 SF OF LAND; DISTRICT - HUNTER MILL

Zoning Dist Sect: 06-0105
Located: 13174 DIAMOND MILL DRIVE, HERNDON, VA 20171

Zoning: PDH- 8
Plan Area: 3,
Overlay Dist:
Map Ref Num: 016-3- /07/ /0069



Elaine M. Whitehurst

COPPERMILL

DATE: MAY 8, 2000 SCALE: 1" = 10'

RECORD NORTH

N 45°36'40" E 32.00' x 6' High
STOCKADE FENCE

* Outdoor ^{Play} Area is entirely fenced in area

12'

WOOD
DECK

(off limits)

LOT 69
2496 SQ. FT.

Deck is on
second level
10 1/2' high

OVERHANG

22.3'

N 44°23'20" W

PARTY WALL

2 STORY
FRAME
#13174

S 44°23'20" E

78.00

78.00'

22.0'

10.0'

BOX
WINDOW

CONC.
STOOP

CONC. D/W

CONC. WALK

23.7'

IPF

IP

S 45°36'40" W 32.00'
SIDEWALK (0.4' OFF PROPERTY)

DIAMOND MILL DRIVE

(PRIVATE STREET)

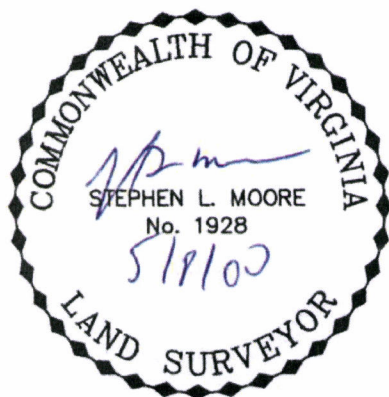
FLOOD NOTE:

GENERAL NOTE:

LOCATION OF ALL EXISTING IMPROVEMENTS ON THIS PROPERTY THIS PROPERTY LIES IN FLOOD ZONE X, AN AREA
HAS BEEN ESTABLISHED BY TRANSIT AND TAPE SURVEY AND OUTSIDE THE 500 YEAR FLOODPLAIN, AS SHOWN
UNLESS OTHERWISE NOTED THERE ARE NO ENCROACHMENTS ON THE FLOOD INSURANCE RATE MAP COMMUNITY
EITHER WAY. THIS SURVEY HAS BEEN PREPARED WITHOUT A PANEL NUMBER 515525 0050 D DATED MARCH 5,
TITLE REPORT. NO CORNER MONUMENTATION HAS BEEN SET 1990.
UNLESS REQUESTED. IPF DENOTES IRON PIPE FOUND.

STEPHEN L. MOORE LAND SURVEYOR
15315 COLORADO AVENUE WOODBRIDGE, VA. 22191
(703) 492-8725 FAX: (703) 492-9725

OWNER: RUTHERFORD
BUYER: ZENDER & STEINHAUES-ZENDER
CLIENT#HTO00005 WORK#2000-192



DESCRIPTION OF THE APPLICATION

The applicant, Elaine M. Whitehurst dba Whitehurst Family Day Care, requests special exception (SE) approval to operate a home child care for up to nine children at any one time in a single family attached dwelling. The Zoning Ordinance permits home child care providers to care for up to five children at any one time by-right in a single family attached dwelling. Since up to nine children are proposed, special exception approval is needed. Figure 1 depicts the subject property and neighborhood parking spaces.



Figure 1: Subject property and surrounding uses

The subject property is developed with an existing 3-story, one car garage townhome located on Diamond Mill Drive in the Townes at Coppermill subdivision in Herndon. The subject property lies north of Frying Pan Road, east of McNair Farms Elementary School, and west of Fox Mill Road. The surrounding uses are residential with the exception of the adjacent McNair Farms Elementary School and developed with townhouses.

Additional details of this application include:

- The applicant is licensed by the Commonwealth of Virginia to care for up to nine children between the ages of 0 to 12 years, but typically cares for children between 0 to 4 year of age. The applicant's license is valid through

January 15, 2015 and the applicant has a valid business license issued by Fairfax County.

- The applicant has been operating as a home child care provider at the subject property for the last 13 years and as a home child care provider for 20 years.
- The home child care facility is located in the basement of the townhome. The front door to the dwelling is located on the basement level and opens to a hallway that leads to the child care area in the basement. The child care area consists of one room, which serves as the area for activities, meals, and sleeping.
- There is direct egress/ingress access from the child care area to the fenced-in outdoor play area located in the rear of the property.
- Meals are prepared in the kitchen on the main level of the townhome and brought downstairs to the children during meal time.
- The hours of operation are between 7:00 a.m. to 6:00 p.m., Monday through Friday with staggered arrival and departure times.
- There are no employees.
- Parking is available on the existing driveway and provides parking for one vehicle at a time during the arrival and departure times. In the immediate vicinity, there are an additional 74 neighborhood parking spaces available to residents and their visitors, as shown and numbered in Figure 1.

The proposed development conditions, the applicant's statement of justification, and affidavit are provided as Appendices 1 through 3, respectively. Appendix 4 contains a letter from the Townes at Coppermill Homeowners Association indicating that the Board of Directors does not object to this application.

BACKGROUND

On August 8, 1994, the Board of Supervisors approved Rezoning RZ 93-H-045, to rezone property from the R-1 District to the PDH-8 District to permit up to 218 dwelling units, which included the subject property. A copy of the rezoning file is available in the Zoning Evaluation Division.

ANALYSIS

Comprehensive Plan

The Fairfax County Comprehensive Plan, 2013 Edition, Area III, Dulles Suburban Center, amended through April 29, 2014, Dulles Suburban Center Land Unit B recommendations on pages 84-85, states the following:

2. *The three parcels south of Fox Mill Road (Parcels 16-3((1)) 19, 20 and 21) that were not incorporated into the planned development*

for this area are planned for development at 2-3 dwelling units per acre. As an option, residential use at 5-8 dwelling units per acre may be appropriate if the following conditions are met:

- *Full consolidation of all three parcels to achieve high quality development;*
- *Dedication of adequate land to augment the school site and recreational facilities in conjunction with land planned as part of McNair Farms; and*
- *Provision of housing unit types which are compatible with existing and/or planned residential development in the immediate area.*

The subject property was developed as part of a larger subdivision that is in conformance with the Comprehensive Plan provisions.

Special Exception Plat (located at the front of this report)

The Special Exception Plat entitled “House Location Survey Lot 69 Phase 2 Coppermill,” was prepared by Stephen L. Moore on May 8, 2000 and revised on June 17, 2014 by Elaine M. Whitehurst.

The Plat depicts 2,496 square foot lot containing a two-frame townhouse with a concrete stoop and box window. A concrete drive way and walk are located in front of the dwelling. An outdoor play area with no play equipment is located in the rear of the property and contains 592 square feet (18.5 feet x 32 feet). A 6-foot high board-on-board fence surrounds the rear of the property.

Parking and Transportation

Diamond Mill Drive is a privately maintained street that is accessible from Fox Mill Road, a public road. As indicated in the applicant's statement of justification, the arrival and departure times for the nine children are staggered from 7:00 a.m. to 10:00 a.m. and from 4:45 p.m. to 6:00 p.m. in the evenings. The 1-car driveway and surrounding neighborhood parking spaces are sufficient to accommodate the drop-off and pick-up of the children. In the immediate vicinity, there are 74 parking spaces for short-term use. It is staff's understanding that the homeowners' association permits parking in these spaces for less than three consecutive days, the spaces are not numbered, and a parking permit is not required. The homeowners' association does not object to the use of the parking spaces for the drop-off and pick-up of children associated with the home child care use. A copy of the homeowners' association letter is provided as Appendix 4. In staff's opinion, the home child care use will not be hazardous or conflict with the existing neighborhood traffic and there is adequate parking to accommodate the temporary parking associated with the proposed use.

Home Child Care Inspection

On July 10, 2014, a zoning inspection of the home child care facility was conducted by staff and no violations were found with the exception of keyed dead bolt locks (a dead bolt lock that requires a key to unlock from the inside) on the front and rear basement doors. Staff recommended that these locks be replaced with a turn-style dead bolt lock. The Virginia Uniform Statewide Building Code does not permit an interior keyed dead bolt lock and did not at the time the dwelling was built. Key accessible dead bolt locks can be a safety hazard if the key to the lock is not readily available in the event of an emergency. The applicant has replaced both dead bolt locks with turn-style locks. This resolves the issue and there are no outstanding issues. A copy of the home child care inspection report is provided as Appendix 5.

Zoning Ordinance Provisions

Sect. 10-103 of the Zoning Ordinance provides that home child care facilities caring for more than five children in a single family attached dwelling or the involvement of more than one nonresident person may be permitted in accordance with the provisions of Part 3 of Article 8 of the Zoning Ordinance. This section applies to Group 3, Institutional Uses. Further, Sect. 6-105 on Planned Development Districts specifies that Group or Category uses may be permitted with the approval of a special exception when such use is not specifically designated on an approved Final Development Plan (FDP). Since home child care uses are not shown on the approved FDP for this property, this special exception application is required to satisfy the provisions of the General Standards for Special Exceptions (Sect. 9-006), Standards for all Group 3 Uses (Sect. 8-303), Additional Standards for Home Child Care Facilities (Sect. 8-305), and Use Limitations (Par. 6 of Sect. 10-103) from the Zoning Ordinance, which are provided as Appendix 6.

General Standards for Special Exception Uses (Sect. 9-006)

<p>Standards 1 and 2 Comprehensive Plan/ Zoning District</p>	<p>The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The PDH-8 District permits a home child care facility as an accessory use with special exception approval when not shown on an approved development plan. The proposed use is in harmony with the Comprehensive Plan and the general purpose and intent of the PDH-8 District.</p>
<p>Standard 3 Adjacent Development</p>	<p>No new construction is proposed. An outdoor play area with no play equipment is proposed in the existing fenced-in rear yard, which abuts an elementary school. In staff's opinion, the proposed use will not hinder or discourage use or development of neighboring properties or value.</p>
<p>Standard 4 Pedestrian/Vehicular Traffic</p>	<p>Arrival and departure times of the children are staggered and staff has proposed a development condition for the driveway to be made available for the home child care use. Adequate neighborhood parking exists and the HOA does not object to the incidental use of the neighborhood parking spaces. In staff's opinion, the proposed use is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.</p>

Standard 5 Landscaping/Screening	There is an existing 6-foot tall board-on-board fence in the rear yard that screens the outdoor play area, which does not contain play equipment. The board-on-board fence provides a sufficient barrier to the adjacent McNair Farms Elementary School.
Standard 6 Open Space	Open space for the development was previously provided with the approval of RZ 93-H-045 and the associated final development shows 32% net open space provided. The proposed use will not encroach or impact the existing open space.
Standard 7 Utilities, Drainage, Parking, and Loading	There are no changes to the utilities and drainage serving the property or use. As previously discussed, the driveway would be used for parking for the home child care use and there is adequate neighborhood parking in the event the driveway is occupied.
Standard 8 Signs	Sect. 10-103 of the Zoning Ordinance prohibits signs for home child care facilities.

Standards for all Group 3 Uses (Sect. 8-303)

Standard 1 Lot Size and Bulk Regulations	The lot size and bulk regulations for the subject property were previously satisfied with the development of the property. No new construction or exterior modifications are proposed.
Standard 2 Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
Standard 3 Site Plan	Home child care facilities are not subject to the provisions of Article 17, Site Plans.

Additional Standards for Home Child Care Facilities (Sect. 8-305)

Standard 1 Maximum of 12 Children & Non-Resident Employee	The applicant is proposing a maximum of 9 children at any one time, which does not exceed 12, the maximum number of children permitted at any one time. The applicant does not employ a non-resident person. However, staff has proposed a development condition to permit one non-resident person in the future.
Standard 2 Access and Parking	Arrival and departure times of the children are staggered and parking is available on the driveway and in the neighborhood. In staff's opinion, the proposed use is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.
Standard 3 Landscaping/Screening	There is an existing 6-foot tall board-on-board fence in the rear yard that provides screening to the outdoor play area, which does not contain play equipment.
Standard 4 Submission Requirements	The applicant submitted a house location survey in lieu of a special exception plat, which is a permissible alternative.
Standard 5 Code of Virginia, Title 63.2, Chapter 17	The applicant has a valid home child care license through January 15, 2015, to care for up to 9 children between the ages of 0 to 12 years and a valid business license through March 1, 2015.

Use Limitations (Par. 6 of Sect. 10-103)

Part A Maximum Number of Children	The maximum number of children permitted by-right at any one time is five in a single family attached dwelling. The applicant requests special exception approval to permit a maximum of nine children at any one time.
Part B Licensed Provider/Primary Residence	The applicant is a licensed home child care provider and the subject property is the provider's primary residence. The applicant rents the dwelling as her primary residence and has submitted a notarized letter from the property owners permitting the home child care use in the dwelling.
Part C No Exterior Evidence Except Play Equipment	There is no exterior evidence of the proposed use.
Part D Non-Resident Employee	The applicant is not proposing any additional non-resident persons paid or unpaid. On occasion, the applicant's husband or son may assist. However, staff is proposing a development condition to allow one non-resident employee in the future.
Part E Provider is a Non-Resident	The dwelling is the applicant's primary residence. As previously discussed, the applicant rents the dwelling as her primary residence and the owner of the dwelling has granted written permission to operate the home child care facility in the dwelling.
Part F Code of Virginia, Title 63.2, Chapter 17	Chapter 30 of the Code of the County of Fairfax addresses home child care facilities and Title 63.2, Chapter 17 of the Code of Virginia addresses licensure and registration procedures. The applicant has a valid home child care license through January 15, 2015, to care for up to 9 children between the ages of 0 to 12 years and a valid business license through March 1, 2015.
Part G Increase in Children or Non-Resident Person	The maximum number of children permitted by-right at any one time is five in a single family attached dwelling and can be increased to up to 12 children with special exception approval. The applicant requests special exception approval to permit a maximum of nine children at any one time.

CONCLUSIONS AND RECOMMENDATION

In staff's opinion, the proposed home child care facility for up to nine children at any one time at the subject property would not adversely impact the surrounding properties. Staff finds the application is in harmony with the Comprehensive Plan and applicable Zoning Ordinance provisions.

Staff recommends approval of SE 2014-HM-036, subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board of Supervisors, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Proposed Development Conditions
2. Statement of Justification
3. Affidavit
4. Townes of Coppermill Homeowners Association Letter
5. Home Child Care Inspection Report
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SE 2014-HM-036

November 5, 2014

If it is the intent of the Board of Supervisors to approve SE 2014-HM-036 located at 13174 Diamond Mill Drive, Tax Map 16-3 ((7)) 69, for a home child care facility with up to nine children at any one time, pursuant to Sect. 6-105 of the Fairfax County Zoning Ordinance, staff recommends that the Board of Supervisors condition its approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferrable to other land.
2. This Special Exception is granted only for the home child care use on the special exception plat approved with the application, as qualified by these development conditions.
3. Any plan or permit submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat, consisting of an annotated House Location Survey entitled "Lot 69 Phase 2 Coppermill," prepared by Stephen L. Moore, dated May 8, 2000, and revised by Elaine M. Whitehurst on June 17, 2014, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. A copy of the special exception conditions shall be posted in a conspicuous place on the property of the use and made available upon request to all departments of the County of Fairfax during the hours of operation for the permitted use.
5. Excluding the provider's own children, the maximum number of children on-site at any one time shall not exceed nine children.
6. The hours of operation for the home child care facility shall be between the hours of 6:30 a.m. and 7:00 p.m., Monday through Friday.
7. The dwelling that contains the home child care facility shall be the primary residence of the provider.
8. A maximum of one non-resident employee, whether paid or not for the services, may be involved in the home child care facility.

9. The existing one-car garage shall not be converted to any use that would preclude the parking of vehicles and shall accommodate parking for the dwelling and the home child care facility.
10. There shall be no signage associated with the home child care facility.
11. All outdoor play equipment shall conform to all applicable state regulations and standards.
12. Proper licensure and procedures shall be adhered to in accordance with Chapter 30 of the Code of the County of Fairfax and Title 63.2, Chapter 17 of the Code of Virginia.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by the Board of Supervisors. This approval, contingent on the above noted conditions, shall not relieve the application from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect. 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, 30 months after the date of approval unless the use has been established.

RECEIVED
Department of Planning & Zoning

MAR 31 2014

Zoning Evaluation Division

Elaine Whitehurst
Whitehurst Family Daycare
13174 Diamond Mill Dr.
Herndon, VA 20171

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Pkwy., Suite 801
Fairfax, VA 22035

RE: Special Exception Request - Daycare

To Whom It May Concern:

I live in a townhome in the **Townes of Coppermill** community at **13174 Diamond Mill Dr., Herndon, VA 20171**. I am renting the townhome (see attached ownership letter) and have approval from the owners to operate a child daycare in the home. However, the property is zoned PDH and I understand that I need to seek approval for a special exception in order to continue to operate the child daycare within my home. I am currently licensed (for the past 20 years, with 13 years at this location) by the State of Virginia with 9 children being the maximum number I can care for. Since I have been in this home (February, 2001), I have also obtained each year, a Fairfax County "Business License" for my daycare. (See attached copy)

Here is more information about my daycare:

Hours of Operation: The daycare is open from 7:00 AM to 6:00 PM, Monday through Friday.

Number of Children: I am licensed to care for 9 children in my home.

Employees: I do not have any employees.

Arrival Times: One child arrives between 7:00 and 7:10 AM; three children (2 families) arrive between 7:30 and 7:45 AM; three children arrive between 8:15 and 8:30 AM; and the last two children arrive between 9:00 and 10:00 AM.

Departure Times: One child leaves between 4:45 and 5:00 PM; one child leaves between 5:00 and 5:15 PM; four children (3 families) leave between 5:15 and 5:45 PM; and the remaining three children leave at 6:00 PM.

Areas Served: Currently, five families (6 children) live in nearby neighborhoods in Herndon. Two of those families walk to my home on good-weather days for drop-off and pick-up times. One family lives in Reston; one family lives in Ashburn; and one family lives in Baltimore, MD.

Parking: My driveway is available for use by the parents during arrival and departure times. It provides parking for one vehicle at a time. In addition to the driveway, there are ample parking spaces available

along the streets surrounding my home: Diamond Mill Dr., Fox Mine La., Spring Mill La., Laura Mark La., and a short distance up the street is Mountain Mill La. (see attached photos)

With their varied arrival and departure schedules, and the availability of parking spaces, parking is adequate for the parents to drop off and pick up their children, and I have never experienced any problems of congestion or limited parking availability.

Operational Usage of the Home: As stated above, my home is an attached townhome. It is an end-unit, three-level, 2400 square-foot home. The entrance to the home is on the lower level. It also has an entrance to the fenced in back yard. The lower level, with the exception of the garage and the laundry room, is entirely used for the daycare. Enclosed are photos indicating the laundry and garage doors, and the daycare location/set-up. The upper two levels of the home are prohibited to the daycare children.

Outdoor Play: The backyard is used for the children's outdoor playtime. As mentioned above, there is access directly to the backyard from the daycare room. I do not have a "play structure" or swing set in the backyard. It is enclosed with a fence, which is indicated on the plat.

In conclusion, due to the extended period of time that I have been an approved licensed provider in this property; together with the approval from the owners for daycare on the property; plus the appropriate amount of safe, inhabitable space used for the daycare (both indoor and outdoor); and the plentiful parking spaces available to the parents, my home daycare does not impact my neighbors in any negative way, and I will appreciate your approval of this special exception request.

Thank you for your consideration in this matter.

Sincerely,

Elaine M. Whitehurst

Elaine Whitehurst,
Owner/Provider of Whitehurst Family Daycare

Fenced Around Backyard - Outdoor Play Area

↕ = 18' 1/2' ↔ = 32'

BACK DOOR EXIT

Elaine
Whitehurst
(Whitehurst
Family Daycare)

1st Indoor Play Area; Also, (after cleaned up)
Meals' Area & Sleeping
Area
(then back to play area)

↔ = 22'

↕ = 20'

Bathroom
↕ 6' ↔ 6'

DOORWAY

2nd Indoor
Play Area

↔ = 8'

↕ = 16'

Laundry
Room
(off limits)
↔ 8' 1/2' ↕ 6'

Single-car
Garage
(off limits)

RECEIVED
Department of Planning & Zoning

JUN 23 2014

Zoning Evaluation Division

Stairs -
going up
(off limits)

FRONT DOOR EXIT

Gate
Blocking
Stairs



















SPECIAL EXCEPTION AFFIDAVITDATE: MARCH 29, 2014
(enter date affidavit is notarized)I, ELAINE M. WHITEHURST, do hereby state that I am an
(enter name of applicant or authorized agent)(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

126029

in Application No.(s): SE 2014-HM-036
(enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
ELAINE M. WHITEHURST (DBA-WHITEHURST FAMILY DAYCARE)	13174 DIAMOND MELL DR. HERNDON, VA 20171	APPLICANT / LESSEE
JOERG ZENDER and KIRSTEN STEINHÄUER-ZENDER	2411 NE 14th St. RENTON, WA 98056	OWNERS

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

- * In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
- ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

JEM

SPECIAL EXCEPTION AFFIDAVIT

DATE: MARCH 29, 2014
(enter date affidavit is notarized)

126029

for Application No. (s): SE 2014-HM-036
(enter County-assigned application number(s))

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: MARCH 29, 2014
 (enter date affidavit is notarized)

126029

for Application No. (s): SE 2014-HM-036
 (enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: MARCH 29, 2014
(enter date affidavit is notarized)

for Application No. (s): SE 2014-HM-036
(enter County-assigned application number(s))

126029

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

Application No.(s): SE 2014-HM-036
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL EXCEPTION AFFIDAVIT

DATE: MARCH 29, 2014
(enter date affidavit is notarized)

126029

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one) ☒ Elaine M. Whitehurst Applicant ☐ Applicant's Authorized Agent

ELAINE M. WHITEHURST APPLICANT / LESSEE
(type or print first name, middle initial, last name, and & title of signee)
(DBA- WHITEHURST FAMILY DAYCARE)

Subscribed and sworn to before me this 29th day of MARCH 2014, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

Linda A. Manson
Notary Public

My commission expires: 3/31/2014



Linda A. Manson
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7016164
My Commission Expires
3/31/2014

5em

OWNER CONSENT/AGENT AUTHORIZATION STATEMENT

126029

To Whom It May Concern:

I/We, the undersigned applicant and/or title owner(s) of the property identified below, do hereby authorize Elaine M. Whitehurst to act as agent(s) in the furtherance of an application for a special permit on property located at: 13174 Diamond Mill Drive, Herndon, VA 20171 Tax Map No. 0163 07 0069.

Thank you in advance for your cooperation.

Date: 8/15/2014

By: Joerg Zender

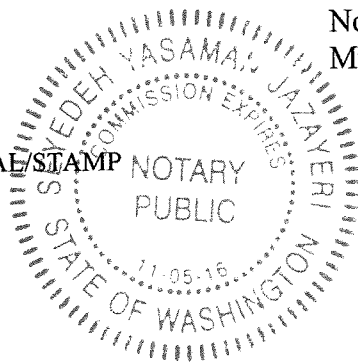
JOERG ZENDER/TITLE OWNER

COMMONWEALTH/STATE OF: Washington
CITY/COUNTY OF: King, TO WIT:

The foregoing instrument was acknowledged before me this 15th day of August, 2014, by Joerg Zender.

S.Y. Japayin
Notary Public (Signature)
Notary Registration No. _____
My Commission Expires: 11-05-2016

AFFIX NOTARY SEAL/STAMP



ALL TITLE OWNERS MUST SIGN IN PRESENCE OF NOTARY. IF THERE IS MORE THAN ONE OWNER, SIGNATURES MAY CONTINUE ON NEXT PAGE.

Owner Consent/Agent Authorization Statement

Page 2 of 2

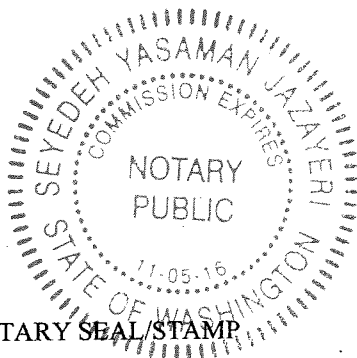
126029

Date: 8/15/2014

By: [Signature]
KIRSTEN STEINHAUER-ZENDER
CO-TITLE OWNER

COMMONWEALTH/STATE OF: Washington
CITY/COUNTY OF: King, TO WIT:

The foregoing instrument was acknowledged before me this 15th day of August,
2014, by Kirsten Steinhauer-Zender.



AFFIX NOTARY SEAL/STAMP

[Signature]
Notary Public (Signature)
Notary Registration No. _____
My Commission Expires: 11-05-2016

Coppermill Property Owners Association
c/o Stephens & Company
P.O. Box 1179
Leesburg, VA 20177-1179

RECEIVED
Department of Planning & Zoning
APPENDIX 4
SEP 08 2014
Zoning Evaluation Division

Phone: 703.771.1670
Fax: 703.771.7620

Nancy Stephens Carter, Managing Agent
Email: Nancy@StephensMgmt.com

Sept. 4, 2014

TO WHOM IT MAY CONCERN:

Mrs. Elaine Whitehurst is a thirteen year resident of the Townes of Coppermill neighborhood, residing in rental property at 13174 Diamond Mill Drive.

Mrs. Whitehurst has maintained and operated a licensed daycare at the above location for the entire thirteen years, with no reports of difficulty with neighbors due to this activity, nor disruption of community activities. She is a tenant that maintains her home well, as well as adjoining neighborhood property.

There is sufficient parking available for the short timeframe required for daycare drop-off and pick up, both in the Whitehurst driveway and in nearby spaces on the street. The property is up to date on HOA dues, with no liens or assessments due. Both myself, along with the Board of the Property Owner's Association, have no objection to her continuing her daycare activities in the manner in which she has been doing it over these past 13 years.

Thank you,

Howard Carlin

Howard Carlin
President, Townes of Coppermill Property Owners Association




County of Fairfax, Virginia

MEMORANDUM

Date: July 31, 2014

To: Mary Ann Tsai, Staff Coordinator
Zoning Evaluation Division
Fairfax County Department of Planning and Zoning

From: Bruce Miller 
Zoning/Property Maintenance Inspector
Zoning Inspection Branch

Subject: Home Child Care Facility, Special Permit # SP 2014-DR-066

Applicant: Elaine M. Whitehurst dba "Whitehurst Family Daycare"
13174 Diamond Mill Drive, Herndon VA 20171
COPPERMILL LT 69 PHASE 2
16-3 ((7)) 69
Zoning District: PDH-8
Hunter Mill District
Mail Log # 2014-HM-0266

KEY: A "✓" mark in a box indicates that the item was deficient.

An unmarked box indicates that no violation was found.

- ☐ Rooms used for sleeping must provide two means of exit, one which leads directly to the outside, as required by the Virginia Uniform Statewide Building Code. (32-12-30.)
- ☐ An operable smoke alarm shall be provided outside of each sleeping area, with at least one such device on each floor.
- ☐ All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code.

- ☐ All egress pathway and exit doors shall be unlocked in the direction of egress and free from obstructions that would prevent their use, including debris, storage, and accumulations of snow and ice.

- ☒ Double Cylinder Door Locks (keyed dead bolts) installed on egress doors.

Comment: Door locks on egress doors cannot require a key or special knowledge to open from the inside.

- ☐ Electrical hazards identified shall be abated in accordance with the Virginia Uniform Statewide Building Code.
- ☐ Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.
- ☐ A working space of not less than 30 inches in width, 36 inches in depth, and 78 inches in height shall be provided in front of the electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.
- ☐ Structures comply with the Zoning Ordinance.

ZONING ORDINANCE PROVISIONS

9-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305 Additional Standards for Home Child Care Facilities

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
 - A. The dimensions, boundary lines and area of the lot or parcel.
 - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
 - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
 - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

10-103 Use Limitations

6. The following use limitations shall apply to home child care facilities:
 - A. The maximum number of children permitted at any one time shall be as follows:
 - (1) Seven (7) when such facility is located in a single family detached dwelling.
 - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.

- B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation. Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.
- C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
- D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
- E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.
- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.